

REMARKS

This Amendment is being filed in response to the Final Office Action mailed March 3, 2008 which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

By means of the present amendment, claim 13 has been canceled without prejudice and its features included in independent claims 1, 8, 11-12. Further, claim 18 has been canceled without prejudice and its features included in independent claim 15. Accordingly, no new issues requiring a new search have been introduced and entry of the present Amendment is respectfully requested.

In the Final Office Action, claims 1-14 are rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter. Without agreeing with the Examiner, and in the interest of furthering the prosecution and expediting allowance of the present Application, independent claim 1 has been amended for better form that more clearly recites statutory subject matter. Further, independent claim 8 includes "means for" and, under 35 U.S.C. §112,

paragraph six, "means for" is deemed to be a structural feature. It is respectfully requested that the rejection of claims 1-14 under 35 U.S.C. §101 has been overcome and withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 15-21 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. Without agreeing with the Examiner, and to advance prosecution and expedite allowance of the present application, claim 15 has been amended for better clarity, which is fully supported and enabled by the specification and figures, such as described on page 6, lines 9-13 and shown in FIG 1. Accordingly, withdrawal of this rejection to the claims 15-21 is respectfully requested.

In the Final Office Action, claims 1-6, 8 and 11-21 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,377,958 (Orcutt). Further, claims 7 and 9-10 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Orcutt in view of U.S. Patent No. 6,895,490 (Moore). It is respectfully submitted that claims 1-12, 14-17 and 19-21 are patentable over Orcutt and Moore for at least the following

reasons.

On pages 16-17 of the Final Office Action, in rejecting claim 13, column 4, lines 57-61, and column 7, lines 49-64 of Orcutt are cited to allegedly show an indicator area or a stored indicator "setting the indicator such that it indicates the inconsistency if the virtual file system data and/or the main file system data are changed," as recited in amended independent claim 12, and similarly recited in amended independent claims 1, 8 and 11. (Illustrative emphasis added)

It is respectfully submitted that column 4, lines 57-61 of Orcutt merely discloses a partition identifier and a system indicator that indicates the type of file system contained in the partition. Further, column 7, lines 49-64 of Orcutt merely discloses checking for a preventive condition that prevents completion of a file conversion, and discontinuing the attempted file system conversion without completing it if such a preventive condition is found.

It is respectfully submitted that checking for a preventive condition, and acting accordingly, in no way teaches or suggests setting the indicator if the virtual and/or the main file system

data are changed, as recited in independent claims 1, 8 and 11-12.

Further, on pages 20-21 of the Final Office Action, in rejecting independent claim 18, column 7, lines 49-64 and column 13, lines 18-20 of Orcutt are cited, for allegedly showing "the indicator comprises a flag which is set when the virtual data are updated, indicating that the virtual data are valid, and which is reset when the main data are updated independently, indicating that the virtual file system data are invalid," as recited in amended independent claim 15.

As noted above, it is respectfully submitted that column 7, lines 49-64 of Orcutt merely disclose discontinuing an attempted file system conversion without completing it if such a preventive condition is found. Further, column 13, lines 18-20 of Orcutt merely disclose that a file system being used is identified by checking the system indicator 310. In addition, if "a recovery partition indicator is present, recovery proceeds by backing out all changes, by continuing the conversion from the last logged checkpoint." (Column 13, lines 24-27 of Orcutt)

These noted sections of Orcutt are completely silent and do not even disclose or suggest setting or resetting any flags, let

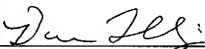
alone setting a flag when the virtual data are updated, indicating that the virtual data are valid, and resetting the flag when the main data are updated independently, indicating that the virtual file system data are invalid, as recited in amended independent claim 15. Moore is cited to allegedly show other features and does not remedy the deficiencies in Orcutt.

Accordingly, it is respectfully submitted that independent claims 1, 8, 11-12 and 15 should be allowable. In additions, claims 2-7, 9-10, 14, 16-17 and 19-21 should be allowable at least based on their dependence from independent claims 2-7, 9-10, 14, 16-17 and 19-21.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By   
Dicran Halajian, Reg. 39,703  
Attorney for Applicant(s)  
April 14, 2008

THORNE & HALAJIAN, LLP  
Applied Technology Center  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101